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OFFICE OF PETITIONS

In re Patent No. 7,662,771 :
Issued: February 16, 2010 :
Application No. 10/566,342 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: January 27, 2006 :
Dkt. No.: 853/004 :

This is a decision on the petition filed May 18, 2010 requesting reconsideration of the decision mailed April 21, 2010.

To the extent that patentees seek reconsideration of the decision mailed April 21, 2010, the petition is **GRANTED**.

To the extent that patentees seek an increase in the patent term adjustment, the petition is hereby **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,662,771 on February 16, 2010. The patent issued with a patent term adjustment of 521 days.

The instant patent is not entitled to adjustment pursuant to 37 CFR 1.703(b) because the instant patent issued less than three years after the date of commencement.

The "B" delay period is zero days. It is thought that perhaps patentees calculated this period based on the date this application fulfilled the requirements of 35 U.S.C. 371. However, in an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See, 1.702(b). The priority date of this application is August 20, 2003. The requirements for early commencement were not met; accordingly, the national stage commenced in this application on Tuesday, February 21, 2006. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a federal holiday (February 20, 2006, President Washington's Birthday), the period expired on the subsequent business day, Tuesday, February 21, 2006. See, PCT Rule 80.5.

As the patent issued prior to three years from the date of commencement, that is, on or before February 21, 2006, the patent is not entitled to "B" delay.

In view thereof, no adjustment to the patent term will be made.

No additional fee is due in connection with this matter.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

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